

Honolulu Star-Bulletin

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EDITOR

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THE CALIFORNIA BILL AND THE TREATY

[Prof. M. M. Scott, principal of McKinley High School, has contributed the following article at the request of the Star-Bulletin. Prof. Scott's intimate knowledge of Japan's aims, ideas and thoughts from his long and brilliant services for education in the empire, no less than his grasp of treaty history and powers, makes his utterances below timely and authoritative, and as president of the Japan Society of Hawaii what he says has more than local importance.]

"The subjects or citizens of each of the High Contracting Parties shall have liberty to enter, travel and reside in the territories of the other to carry on trade, wholesale and retail, to own or lease and occupy houses, manufactories, warehouses and shops, to employ agents of their choice, to lease land for residential and commercial purposes; and generally to do anything incident to or necessary for trade upon the same terms as native subjects or citizens, submitting themselves to the laws and regulations there established."

The foregoing is found in Article I of the solemn treaty agreed upon by the United States and Japan, in the year 1911, and signed by Mr. Knox, the secretary of state, and Baron Uchida, the Japanese ambassador at Washington. This treaty is to endure for fifteen years, less than two years having expired. The clause, "to own or lease and occupy houses, manufactories, warehouses and shops, to lease land for residential or commercial purposes," is positive and without any equivocation. "To lease, to own and to occupy houses" necessarily implies that the leases and houses include lands. Houses and manufactories cannot exist in the air. However proficient flying machines are, they are not yet sufficiently developed to have houses and manufactories built in them above the earth.

Section 2 of Article VI of the constitution of the United States solemnly avers: "This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land. And the judges and every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding." A treaty between two sovereign states, solemnly entered into, in the capacity of sovereignties, is of the highest and most binding authority between all civilized states. Treaties have always been deemed of the highest binding obligation, because there are no higher authorities to appeal to. It is deemed a great shame to any state to violate in any way not only the letter but the spirit of a treaty. All nations are jealous of the attempt of any one nation to violate its solemn obligation. Great publicists, and those of the highest authority in international law, are agreed upon the binding obligation of treaties, even regarding their provisions and stipulations as of higher authority than any statute passed by any parliament or legislature. Fortunately, the United States, through its constitution, has not left the final determination of this matter to a statute, or a commonwealth, or even to a statute of the highest authority, the congress of the United States.

I have not the text of the bill introduced into the legislature of California, but if it contains the provisions which have transpired through the cable, it is evidently in violation of the treaty between Japan and the United States, especially of the stipulations of the first clause of the treaty at the head of the foregoing article. Naturally, one cannot speak with authority in the matter without having the provisions of the entire bill before him. But that a statute of a state should be enacted to dispossess those already having leases on houses or lands, at the expiration of a certain time, is virtually spoliation, or more severely, confiscation. The provision that one owning such lands or having such leases shall, within one year, declare intention to become a citizen, is a mere subterfuge to get at the Japanese and Chinese, old residents already owning long leases, and, in some cases, lands in fee simple. This, Mr. Editor, it seems to me, is unworthy of a great, wealthy and enlightened state. It sullies her fame. It sullies the good name and the unblemished reputation of a great people. In our federal system, the state has, unfortunately perhaps, a local right to pass any law she pleases. She, like an individual, can make a fool of herself if she wish. In the Federalist that great statesman, Alexander Hamilton, deplored the fact that the constitution left the commonwealths as lawmaking bodies. He said that thirteen separate lawmaking bodies, and the federal government, the four-

teenth, constituted an anomaly in political science.

We now have forty-eight lawmaking bodies, and it is not to be wondered at that some one of those lawmaking bodies should now and then get the federal government into trouble. But it is our system, and foreigners should learn and understand the conditions of our polity. This is sometimes forgotten by those states that are unitary in their system. The United States has been called "the spoiled child of diplomacy" by other and older countries. But, it must be remembered that the federal government has to atone for and make reparation for the thoughtlessness of those sovereignties in the federal system.

It seems to me, viewing this bill as a mere matter of policy, it is bad for San Francisco and California from every standpoint. The great Panama-Pacific exposition, to be held in San Francisco in 1915 is planned to be the most unique and extensive display the world has ever seen. Her closest and greatest commercial neighbor, Japan, has entered into it with spirit and liberality, and would probably make one of the greatest additions to that exposition of any nation on earth.

However, the Japanese have a ready and easy remedy in the matter. The supreme court of the United States has original jurisdiction in matters of ambassadors and treaties. If the great state of California should sully itself by passing a bill of the nature indicated by the dispatches, the Japanese can appeal to the supreme court at Washington, with a perfect certainty of getting that consideration which one of the greatest bodies in the world always dispenses. And it is a certainty that if this California bill pass, the supreme court of the United States would declare it in violation of the treaty, therefore null and void.

—M. M. SCOTT.

OVERHAUL THE WATER DEPARTMENT

Nothing could more clearly illustrate the need of a general overhauling of the territorial water department than the public hearing last night on the Hawaiian Electric Company's contract for water from Nuuanu.

The emphatic complaints of Nuuanu residents who have suffered and are suffering a shortage of water; the inadequacy of the department's supervision of the system; the lack of safeguards in the contract with the electric company; the apparent inability of the water superintendent to grasp the significance of the situation;—all these point powerfully to the need for reform in this branch of government.

While the point of the legality of the contract was raised last night, this was not the principal point. Mr. E. Faxon Bishop hit the nail on the head when he said that the Hawaiian Electric Company has been given a special privilege which endangers the right of individual consumers, residents of the valley, to the enjoyment of enough water for domestic purposes. The other nail that was hit on the head is that the contract, in spite of all that has been said for it, does not provide what Nuuanu residents consider are safeguards for their own protection. It has been claimed that as the contract puts the Hawaiian Electric Company's use of the water under the general rules and regulations of the department, the department will see that the company does not take water through the four-inch pipe when there is a shortage in the valley. Now this may be true as theory, but the facts are that the Nuuanu residents have no confidence in the department and are not willing to trust to its discretion or efficiency.

The senate committee has done about all it can do in furnishing the publicity for the investigation. The waterworks, if all goes well, will soon be in the hands of the Honolulu city officials instead of the territory. Meantime, the complainants have recourse by appeal to the courts.

And when the waterworks are turned over to the city, the overhauling so patently necessary should be begun at once and vigorously.

The report of the house lands committee on the department of public works contains all the "hot stuff" that has been gleefully anticipated by those waiting to see the department get roasted. At the same time, the report is quite obviously a bitter and virulent personal attack on former Superintendent Marston Campbell, who is charged with enough offences to fill a large volume. The most valuable part of the report is that the necessity of further developing the Honolulu water supply and of establishing the meter system is shown beyond a doubt.

LETTERS ON TIMELY TOPICS

[The Star-Bulletin invites free and frank discussion in this column on all legitimate subjects of current interest. Communications are constantly received to which no signature is attached. This paper will treat as confidential signatures to letters if the writers so desire, but cannot give space to anonymous communications.]

THE CALIFORNIA SITUATION.

Editor Honolulu Star-Bulletin.
Sir: At the present time, while the interest of the people of Honolulu is enlivened by the legislation enacted by the California legislature anent the Japanese question, a statement of conditions in California may not come amiss, and a comparison of these conditions in Hawaii might enlighten those who have never been in California, and therefore know of conditions which are hearsay only.

As for myself, I can speak of actual observations, and while I must admit that I am prejudiced unfavorably to the Japanese, I will try to give an unbiased statement of facts.

I have not the context of the bill passed by the California solons and now reposing in the hands of the governor of that sovereign state awaiting his signature or veto.

Senator J. B. Sanford, of Ukiah, Cal., father of the bill, is a newspaper man of ability and has been a member of the legislature for several terms. He has seen other anti-Japanese legislation enter and pass muster of both houses, only to die in the hands of the preceding governors, because a big stick had been swung uncomfortably close to their official heads. Senator Sanford's constituency being composed largely of farmers and fruit raisers, who were being hard-pressed by the forcing tactics of the Japanese and several clastics of Southern Europe and the Near East, he has evidently found it necessary to offer some method of escape from the encroachments of these classes of people. Nearly every member of the California legislature has within his jurisdiction not one, but many cases of the encroachments of the Japanese upon their own homes.

Assemblyman Stuckenbruck, whose home is in the fruit belt of San Joaquin county, is practically surrounded on all sides by the Japanese who have leased most of the orchards—or at least the best orchards of the districts, and demand such exorbitant wages as \$2.25 per day for the inferior quality of their labor in other orchards that the owners of the poorer orchards are practically forced to either abandon them or lease them for what they can get.

The strawberry output of Sacramento county, raised within a stone's throw of the capitol, is controlled by the Japanese, who ship carload after carload to all parts of the coast.

The grape industry is rapidly coming under the domain of the little brown men by right of purchase and lease, and at the present rate, at which they have been acquiring such property they would probably have controlled the industry throughout California, as they do now in Fresno county, within 5 years.

George Shima, probably the greatest Japanese financier on the coast, controlled the potato output of the United States by the crops raised on the thousands of acres which he owned and leased in the delta lands of the Sacramento and San Joaquin rivers, and in Texas. Last year, for the first time in the past eight or ten years, potatoes have been so cheap that it did not pay to dig them, being sold at 25 cents a sack in the field or 50 cents on the levee, and all because a few Japanese and Chinese saw the big money that was being made by Shima and tried to break his corner. They must have succeeded, for I have never before heard of potatoes being so cheap. It is said Shima lost several thousand dollars by the process.

In San Francisco, the Japanese live in any part of the city—alongside the white man, and in many instances own their own homes. They are not segregated as are the Chinese, and compelled to live in a restricted district. Some few people who have no scruples against that race of people, sell the property to them and thereby depreciate the value of adjoining properties.

Newcastle, the center of a large fruit district, has recently had its troubles, a few Japanese having bought property or secured leases and practically compelled their white neighbors to sell out or lease to them to rid themselves of company which they considered noxious—but not until after a lawsuit proved that the leases could not be broken or the property sales abrogated. Vacaville, the cherry district, is dominated by the Japanese.

A comparison of conditions in Hawaii will show the same conditions as to the ownership and leasing of property, these conditions being the more noticeable because of the fact that the Japanese are more numerous

here in proportion to the population than they are in California, although after visiting in some of the towns of that state, one would almost believe he was in Japan, so numerous is this class of people.

The Japanese of California demand and receive a much higher wage for laborer in the fields and orchards than is received by the laborer in Hawaii—\$2.25 and found being the prevailing rate in most districts, although in some places it is lower. This pay is but 25 to 75 cents a day less than the white man receives—and the white man has to find his own grub and carry his own blankets! Sixty dollars and found is considered big money by the white laborer on a California ranch. And the best part of the statement is that many of the Japanese owners hire white men at the latter rate because they find it cheaper than to hire their own nationality!

There is a question in my mind as to the rights of the Japanese government demanding that California, or for that matter, any other sovereign state, or territory, should not make laws governing those people who should own property within the confines of their jurisdiction.

The Japanese government will allow no foreigner to own a foot of land, or a business project of any kind everything being under the control of certain offices of the government. And now they want the say-so over property in America that has been acquired by purchase or lease from the "easy" American.

Since the California legislation has been heralded around the world, I have heard many Honolulu residents express the hope that Governor Johnson of California wouldn't "duck his head under and take water." More than one man here is anxious to see Johnson sign the bill for the exclusion of all Japanese rights in the ownership of property, and I don't think, of those I have heard express at this wish, but as an after-remarker stated that they "hoped they'd have a chance to back up Johnson's signature"—and this in Hawaii, where the legislature was interested enough to pass a resolution telling Californians where to "head in," or Hawaii would feel constrained to "slap her on the nose,"

Our own Bishop Restarick, a man whose first thought, "we are told" should be to love all men as brothers, has sounds the warning note of "yellow peril" in his arguments to keep the tariff on sugar.

And the Advertiser admits that the Japan takes its contention to the U. S. Supreme court that the Japanese are not Mongolians, and wins, that the admission of this horde of foreigners to citizenship will put the government of these islands in the control of those who are second cousins to our own Little Brown Brothers, whom ex-President Taft loved so well.

But, never fear, "Tiser, the islands will be under martial control when that contingency arrives, and your would-be citizens will be short as much of a right to vote as the present citizens of the territory will be.

A MALIHINI.

UPPER MANOA ROAD

Editor Honolulu Star-Bulletin.
Honolulu, April 17, 1913.
Sir:—I beg to call the attention of the board of supervisors through your valuable paper, on the condition of the upper Manoa road from the end of the carline up. That road it will be never repaired in proper shape for pedestrians to travel on, especially in rainy weather. Waters running through July Paka's land floods the road to such a condition that make it impossible to walk over with shoes on it and the mud is about six inches deep. It's a shame to see roads in such bad shape, and people have to wade through mud in order to cross it. Why don't the supervisors see to such things instead of having people kicking before starting in.

Yours respectfully,

"RESIDENT."

WHY?

Editor Honolulu Star-Bulletin.
Sir:—Why is not something done to widen Hotel street and extend Bishop street? Is the property not high enough or are they waiting for more improvements that it may cost more? Why not take action to condemn the property needed for these purposes and let appraisers fix the value?

SPARKS FROM THE CONSUMER.

Editor Honolulu Star-Bulletin.
Sir:—It certainly is not possible that W. R. Castle thinks that he is alone in the matter of entertaining an idea that there is an alleged bamboozle in the rates charged for cur-

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